

6. (Amended) A[n] stable roll-on, spray or wipable antiperspirant deodorant emulsion, resistant to repeated cycles of heating and cooling, comprising:
a phase inversion temperature phase, [comprising] consisting of: glycetyl stearate, cetareth-20, cetyl palmitate, cetearyl alcohol, cetareth-12, dicaprylyl ether, and coco-caprylate/caprate; and
an anti-perspirant.

REMARKS

Applicant has carefully reviewed and considered the Office Action mailed on May 21, 2002, and the references cited therewith.

Claims 1 and 6 are amended and claims 13-21 are canceled; as a result, claims 1-12 are now pending in this application.

Affirmation of Election

Restriction to one of the following claims was required:

1. Claims 1-12 drawn to antiperspirant deodorant (compositions) comprising specified components herein, classified in class 424, subclass for example 401.
2. Claims 13-21 drawn to methods for making antiperspirant deodorant products herein, classified in class 536, subclass 18.5, 115.

As provisionally elected by Applicant's representative, Janal M. Kalis, on April, 29, 2002, Applicant elects to prosecute the invention of Group I, claims 1-12.

The claims of the non-elected invention, claims 13-21, are hereby canceled. However, Applicant reserves the right to later file continuations or divisions having claims directed to the non-elected inventions.

§103 Rejection of the Claims

Claims 1-12 were rejected under 35 USC § 103(a) as being unpatentable over Esser (U.S. 6,221,345, PTO-892), Palinczar (4,724,139), PTO-892) and Kasat et al. (5,424,070, PTO-892). The Esser reference does not describe a phase inversion temperature phase that includes the ingredients claimed. The Esser reference makes no reference to an antiperspirant that is stable over repeated cycles of heating and cooling and over time. This stability is an unexpected effect of the present invention. The Esser reference discusses some features of cream stability but does not describe an antiperspirant having the ingredients or attributes claimed.

The Examiner states that the Esser reference “discloses that glycetyl stearate, dicapryl ether, cetearyl alcohol, Ceteareth-20 and water, and antiperspirant such as aluminum chlorohydrate are useful in deodorant compositions.”

The Esser reference describes incorporating a moisturizing cream into a deodorant or antiperspirant. This reference does not describe a single formulation that includes glycetyl stearate, dicapryl ether, and cetearyl alcohol and Ceteareth-20. The Esser reference does not describe an antiperspirant deodorant emulsion product with an oil phase and a water phase wherein the combination of the oil phase and the water phase forms a phase inversion temperature phase that produces an antiperspirant that is stable over repeated cycles of heating and cooling.

The Palinczar reference describes waxes and a stick-type antiperspirant. The claims of the present invention are not directed to sticks and do not contain waxes. The Palinczar does not describe an emulsion, such as is claimed, nor is there reference to the stability claimed, for the stick..

The Kasat et al. patent describes a stick-type antiperspirant and does not describe an emulsion, such as is claimed. The stick-type antiperspirant does not have the stability claimed over repeated temperature cycling or storage at high temperature.

The Applicant asserts that there is no motivation to combine Palinczar and Kasat with Essar because the Palinczar and Kasat references are directed to stick products. Even if the references are combined, they do not render the claims of the present invention obvious because none of the references describe an emulsion such as is claimed, imparting an unexpected stability to an antiperspirant over extended periods of time, at elevated temperatures and multiple temperature cycles.

Conclusion

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney (612-373-6976) to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

AMIT PATEL ET AL.

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Date 22 July 02

By J. M. K.

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Commissioner of Patents, Washington, D.C. 20231, on this 22nd day of July, 2002.

Name

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